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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,585	02/13/2001	Akira Ishida	P101201-00013	9722

7590 07/28/2004

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EXAMINER
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YUN, EUGENE

ART UNIT	PAPER NUMBER
2682	9

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/781,585

Applicant(s)

ISHIDA, AKIRA

Examiner

Eugene Yun

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamabe et al. (US 5,319,795) in view of Noriaki (JP 02-276323 "IDS").

Referring to Claim 1, Hamabe teaches a radio base station (fig. 1) for performing a radio communication with a plurality of mobile stations (fig. 2).

Hamabe does not teach the radio base station communicating with a space division multiplex method. Noriaki teaches the radio base station communicating with a space division multiplex method (see line 4 of ABSTRACT), the radio base station being characterized by:

Transmitting an instruction to stop performing a diversity reception to a mobile station which the radio base station is to communicate with by the space division multiplex method (see lines 8-11 of ABSTRACT). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teachings of Noriaki to said device of Hamabe in order to maintain efficiency in RF communications and prevent the raising of bit rate.

Referring to Claim 2, Hamabe also teaches a creation means for creating a piece of traffic channel assignment information after receiving a traffic channel assignment request from a mobile station (see col. 6, lines 56-61);

An attachment means for attaching the diversity reception stop instruction to the piece of traffic channel assignment information (see col. 6, lines 66-68 and col. 7, line 1) and

A transmission means for transmitting the piece of traffic channel assignment information with the diversity reception stop instruction, to the mobile station as a response to the traffic channel assignment request (see col. 7, lines 1-7).

Referring to Claim 3, Hamabe teaches a determination means for determining, after receiving a traffic channel assignment request from a mobile station, whether to allow the mobile station to multiplex with another mobile station which has communicated with the radio base station (see col. 6, lines 19-27);

a creation means for creating a piece of traffic channel assignment information when the determination means determines to allow the mobile station to multiplex with the other mobile station (see col. 6, lines 56-61);

An attachment means for attaching the diversity reception stop instruction to the piece of traffic channel assignment information (see col. 6, lines 66-68 and col. 7, line 1) and

A transmission means for transmitting the piece of traffic channel assignment information with the diversity reception stop instruction, to the mobile station as a response to the traffic channel assignment request, and transmitting the diversity

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reception stop instruction to the other mobile station through a traffic channel (see col. 7, lines 1-7).

Hamabe does not teach communication using the space division multiplex method. Noriaki teaches communication using the space division multiplex method (see lines 8-11 of ABSTRACT). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teachings of Noriaki to said device of Hamabe in order to maintain efficiency in RF communications and prevent the raising of bit rate.

### ***Response to Arguments***


3. Applicant's arguments with respect to claims 1-3 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eugene Yun whose telephone number is (703) 305-2689. The examiner can normally be reached on 8:30am-5:30pm Alt. Fridays off.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on (703) 308-6739. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Eugene Yun  
Examiner  
Art Unit 2682

EY

  
VIVIAN CHIN  
SUPERVISORY PATENT EXAMINER  
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7/26/04